

NR 445 Technical Advisory Group Meeting 11
June 19, 2001 Notes
Wisconsin Electric Auditorium
231 West Michigan Street, Milwaukee, WI

TAG Attendance: Jim Beasom, Appleton Papers, Inc.; Jose Bucio, WI AFL-CIO; Terry Coughlin, Wisconsin Electric; Dan Daggett, WI Bureau of Public Health; Dave Gardner, Briggs & Stratton Corp.; John Hausbeck, Madison Public Health; Howard Hofmeister, Bemis Company; Brian Mitchell, WI Cast Metals Assoc.; Anne Neudorfer, WI Cast Metals Assoc.; Tom Ravn, Serigraph, Inc.; Rudy Salcedo, City of Milwaukee Health; Pat Stevens, WI Transportation Builders Association; Ty Stocksedale, SC Johnson; Caryl Terrell, Sierra Club; Caroline Garber, WDNR; Dennis Koepke, WDNR; Jeff Myers, WDNR; Andrew Stewart, WDNR

Committee Attendance: Renee Bashel, Commerce; Kelly Cochrane, Michael, Best & Friedrich; Tom Coogan, Commerce; Robert Fassbender, HFO Associates (for Jeff Schoepke, WMC); Jim Fleischmann, Liesch Environmental Services; Myron Hafele, Kohler Co.; Jennifer Hamill, WDNR; John Heinen, Richland Center Foundry; Robert Heitzer; Jamie Kandalepas, CBE; Paul Kubicek, Kohler Co. Bonnie Mayer, Mining Impact Coalition of WI; Lynn Knudtson, Future Foam; Susan Rosenberg, MGE; Jason Schwefel, Quad/Graphics, Inc.; Jill Stevens, Alliant Energy; Lyman Wible, Kestrel Management; Erin White, USEPA Region 5

I. Welcome/Introductions/Review of Meeting Notes/Agenda Review

- Welcome - Caroline Garber welcomed TAG and Toxics Committee members.
- **Review of Meeting Notes** –
 - *Comment-* M. Hafele clarified that in the notes from Meeting 10 – April 18th, 2001, the question he asked on Page 2 in the notes was not how many emergency generators have permits. He had wanted to know how many emergency generators were included in the DNR's analysis of emissions from diesel engines.
 - *Response-* A. Stewart said that none of the analysis was done on emergency generators.
- **Review of Meeting Agenda**
 - C. Garber reviewed the agenda and asked for comments. No suggestions for additional items for the agenda were brought forward.

II. Progress Reports

- Caroline Garber, DNR Environmental Studies Section Chief presented a status report on a number of pending issues, including: spills reporting, wood dust, coal dust, asphalt fumes and the permit interface of NR 445 and new source and operating permits.
 - ✓ Spills – The NR 445/706 advisory group, which is evaluating the spills language issues in NR 445 and NR 706 recently had a meeting where James Drew (DFHS) presented information from the Hazardous Substances Emergency Events Surveillance (HSEES). The data showed that there have been evacuations and injuries associated with releases of some chemicals at amounts less than the Federal Reportable Quantity (listed in 40 CFR Parts 117 and 302). DNR will be revising a proposal on spills language in the near future and present this to the NR 445/706 advisory group. At a later date, the issue will be brought back to the entire TAG.
 - *Comment-* C. Terrell stated that the DHFS analysis showed there is a problem with the Federal Reportable Quantities being too high.
 - ✓ Wood Dust – DNR is looking at existing regulations that might apply for wood dust sources as well as performance based standards. Since there are many sources of wood dust, this analysis will take more time. Staff are considering establishing a workgroup for this substance. The idea of this workgroup would be similar to that of silica. The substance would be listed, but no thresholds or standards would be applied at this time, pending the outcome of the workgroup analyses.

- ✓ Coal Dust – Staff are waiting for more information on current management practices at coal storage piles and other practices to manage coal dust. Staff are considering either sending out a survey of management practices or have a meeting to bring the various parties together to discuss the specific issues.
- *Comment-* T. Coughlin stated that the utility association would like to meet about this.
- ✓ Asphalt Fumes – Staff are examining various options for addressing these emissions. An industry meeting is planned for later this month.
- ✓ Permit Interface – Air staff have met with the compliance and new source permit teams to discuss how best to align the NR 445 requirements with permits. Additional meetings are planned as well.

III. **Proposed performance-based standard for compressed ignition internal combustion engines (diesel generators)**

- Andy Stewart, DNR Air Management Engineer presented and begin a discussion on a proposed performance-based standard for compressed ignition internal combustion engines (see handout titled – “Standards for Stationary Source & Portable Internal Combustion Engines”). He said that staff had requested ideas on how one might set a threshold for size of engines that might be subject to NR 445. Having received little additional information, staff presented a proposal that is as follows:
 - ✓ All non-exempt existing diesel engines > 100 Horsepower must use the ultra low sulfur fuel (15 ppm) when it becomes available (estimated 2006-2007 timeframe)
 - ✓ All non-exempt existing engines that use > 40,000 gallons per year of diesel fuel must install a particulate control device. The 40,000 gallons per year was based on the current emergency generator exemption of 200 hours for up to a 3,000 kW engine – such an engine would burn about 40,000 gallons of fuel in these 200 hours of operation.
 - ✓ New non-exempt diesel engines > 100 Horsepower must meet BACT. BACT must be a stringent as standards for existing sources.
 - ✓ All sources (new and existing) must also meet the Reference Concentration of 5 ug/M3 on an annual basis.
- *Question* - B. Fassbender asked about the basis for the 200 hours and 3,000 kW exemptions.
- *Answer-* A. Stewart said he would look into this issue and report back to the TAG.
- *Question* – P. Stevens said the Clean Air Act defines portable engines and questioned whether the Department had the authority to regulate these sources. In addition, these sources are not located at the same location for 70 years and therefore the risks would be less. His position is that these sources should be exempt.
- *Question* – J. Myers asked whether most facilities use off-road diesel now
- *Answer-* From the discussion, that followed, most sources use off-road diesel.
- *Comment* – T. Ravn said that he doesn’t want to have additional fuel types required.
- *Response* – A. Stewart stated that the Department’s intent is to require the on-road diesel fuels, consistent with EPA rules that are being proposed for diesel fuel in 2006 or 2007.
- *Comment-* B. Fassbender stated that WMC would provide written comments to the Department on its diesel proposal. He stated that they thought the Department had used risk assessment to justify removal of the diesel exemption, but in the letter the Department sent to the Engine Manufacturer’s Association, the Department said the risk assessments were not the reason for removal of the exemption. He said WMC would take issue with the appropriateness of the diesel proposal. In addition, portable sources should be exempt since they may not be present at the same location for 70 years, but might be at one location for a year or two – he wanted to know if consideration of time of exposure was important. He also said that if federal fuel is required to be used, why not tie it more directly to the federal fuel rules.
- *Response* – A. Stewart stated that staff could look at this timing of fuel availability option
- *Response* – D. Daggett said that the Department of Health and Family Services (DHFS) conducts risk assessments and cancer is a long-term exposure concern. Exposures of less than lifetime is often done on a linear basis (e.g., 7 years exposure would be 10% of the 70 year exposure estimated for lifetime risk). However, the management aspect of risks and sources is the DNR’s responsibility. DNR makes the determination of control technologies and what types of sources need to be considered.

- *Comment-* T. Stocksdale was of the opinion that we are only chasing one end of the problem – the emissions. Increased electrical generation demand is causing the problem. He would like to see a power strategy in the state.
- *Comment* – J. Fleischmann stated that risks could be ratioed for less than lifetime exposures.
- Caroline Garber discussed the Wisconsin Utilities Association suggested list of exempt sources that would be considered as emergency generators.
- *Question* – C. Terrell asked whether this list of exempt sources would all be used less than 200 hours of operation.
- *Response* – The WUA members will supply an estimated level of use for each of these types of diesel engines.

IV. Business Impact Analysis Work Group

- *Dennis Koepke, Air Management Economist,* presented the work done to date by the Working Group on identifying industry sectors likely to be most affected by the proposed revisions to NR 445. There were 16 new and 2 existing chemicals that were either moderate or high potential for their use in Wisconsin.
- *Question* – R. Salcedo asked what the end users or industrial uses of some of the chemicals were.
- *Answer-* D. Koepke added some additional explanations. Kaolin is used in paper making to put a glossy coating on the paper. It is used wet, in a slurry and the likelihood of air releases are very low. For Coal dust, performance based standards and existing regulations are being evaluated. Ethyl Tertiary Butyl Ether (ETBE) is not likely to be a significant emission because it is a very expensive fuel additive and no other commercial products are known to contain it. Foam blowing agents may not be a large problem because many of them are scheduled for phase-outs by 2010 to 2020 and the fact that relatively few businesses (about 22, 6 of which currently have permits) use this chemical. With regard to Copper and Manganese, as fumes, mainly this is an issue with welding rods – if enough welding is done, the trace levels of Manganese and Copper might be over a threshold, but since indoor fugitive emissions are exempt, this may mitigate potential regulatory impacts. The work group is looking at about 12 industry groups for regulatory impacts and DNR compliance inspectors have been conducting some source interviews when they conduct compliance inspections. In addition, letters requesting information on certain chemicals has been sent to chemical industries as well.

Some additional work is being done by Kestrel Management (WMC's Consultant) to identify tasks that might be associated with regulatory compliance activities. Also, DNR staff have begun to consider how to reduce regulatory burdens on facilities that only have a small amount of emissions, with the hope that there might be a way to reduce their regulatory compliance burden, while still being protective of public and environmental health.

- *Comment-* L. Wible commented that D. Koepke's comments may have sounded like there were not going to be significant impacts from the new/revised chemical listings. He wanted to make sure everyone realized that the impacts are more than the 5 or 6 major chemicals and industries that use them. Besides, not knowing all the impacts of changes to the listings, one must consider the broader impacts to all of Wisconsin's sources that these changes create. There is no easy way to identify all the industries that might be affected.
- *Question* - T. Stocksdale asked whether these industry sources were found mainly through looking at Material Safety Data Sheets (MSDSs)
- *Response-* MSDS were one of the main sources, but not the only source of information.
- *Comment-* B. Fassbender stated that this is a work in progress. WMC's position is that merely listing a substance has an impact. There will be substantial cost for a source to conduct a "reasonable search and inquiry", evaluate what it needs to do for spill notification, etc. The whole process of evaluation has a cost. WMC will extrapolate from this "sliver" of estimated impacts to estimate overall impacts to Wisconsin businesses.
- *Question* - P. Stevens inquired as to why Silica and Diesel exhaust were not on the list.
- *Response* – C. Garber said that for now, silica is exempt from the requirements of inventory and standards and since this chemical will be the subject of a special work group that will be set up at a later date, Silica is not in this impact analysis. Diesel is on the list of industrial sectors that will be included in the work group's analysis.

- *Comment-* P. Stevens said he did not agree with the idea that there should be no analysis of the impacts on industries that emit Silica in the workgroup's analysis.

V. **Small Emitters**

- *Caroline Garber and Andy Stewart* presented a concept for addressing small sources of emissions (see handout titled –“Small Emission Sources”). The primary concept is that the rule revisions may impact many smaller facilities that have not previously had experience complying with air pollution requirements and for some of these sources, they would need to analyze their emissions only to find that they are below all applicable thresholds –thus having incurred some expense in time and money to evaluate their impacts. In order to focus regulatory efforts on emissions of greater importance, one might find an “easy” way to characterize “small” emitters. These small emitters would be exempt from many of the administrative burdens associated with the rule, but staff feel it is important to be able to ensure that even these smaller sources meet the standards in the rule (on a case-by-case basis) if a problem was found at a source or source category. Education and outreach as well as voluntary emissions reductions would be the main focus of the Department's interactions with these small emitters.
- *Comment* –J. Hausbeck stated that he had concerns about this proposal. He understands that many small businesses need compliance help, but there are often many such small emitters in an area, which can be a bigger problem than some larger emitters can. He also wondered about treating businesses in an urban area differently than in a rural area. He said one must be careful about exempting them.
- *Response* – C. Garber responded that Department staff share many of those same concerns.
- *Question* –D. Daggett asked whether the current rule has any exemptions like this one.
- *Answer-* No. this would be a new proposal.
- *Question* - –D. Daggett asked whether small emitters are currently having problems meeting NR 445.
- *Answer-* A. Stewart stated that Department staff had no specific examples, but some larger industries have problems meeting the rule and it is likely that some smaller emitting sources would as well.
- *Comment-* L. Wible explained that this proposal may have the beneficial effect of reducing transaction costs (i.e., administrative burdens), while still protecting public health.
- *Comment-* C. Garber commented that the likelihood of us catching a problem with small emitters, even with the current rule, is small. Enhancing educational outreach in this area might be beneficial to public health and the environment.
- *Response* - J. Hausbeck responded that as long as there is a reduction in paperwork while maintaining the public health benefits, the proposal might have some merits.
- *Comment* –J. Beasom said that many of these sources are in residential areas and could be higher risk.
- *Comment-* R. Salcedo suggested that small emission sources are not the same as small impact sources. In urban areas there are many small emission sources that are very close to neighboring property boundaries.
- *Comment* – B. Heitzer stated that for emissions inventory purposes there is a cut-off of 3 tons.
- *Comment* –J. Fleischmann commented that a multitude of sources won't normally combine to be a problem. There is a lot of reporting that is not necessary.
- *Question* – C. Terrell asked whether there was a definition of a small emitter.
- *Response* – C. Garber responded that staff did not have a good definition of what a small emitter was.
- *Comment* – C. Terrell asked whether this included carcinogens and stated that so far, she is not convinced that this is something we need in the rule.
- *Comment* – B. Fassbender stated that this was an encouraging direction and that the “devil is in the details”.
- *Question* – C. Terrell asked about how one might find and fix a problem with a small emitter and wanted to know if this would be a complaint driven process – if so, she had some problems with a complaint based process. She also did not think this would work for carcinogens – most citizens would not have a clue as to whether a source near them even emitted carcinogens and thus, they wouldn't know enough to make a complaint.
- *Response* – A. Stewart said that if a chemical was known to be emitted from larger facilities, it would give the Department the indication that smaller sources might have this same emission, so the program would not be just driven by complaints.
- *Comment* – J. Fleischmann added that DNR has other authorities, like particulate matter regulations that may apply to many of these smaller sources.

- *Comment* – T. Ravn said that we are heading in the right direction. He has had experience filling out forms that are time consuming to comply with, yet have little or no environmental benefit.
- *Comment* – B. Heitzer stated that Autobody refinishing and other small coating job shops are areas of interest.
- *Question* – C. Terrell asked whether some of the voluntary efforts would be part of the rule or not.
- *Response* – J. Hausbeck said that if these small sources were to qualify for the exemption, some type of voluntary options might be considered in the rule.
- *Comment* – J. Beasom said that one might look at compliance assistance (e.g., tax benefits, etc.).
- *Comment* – J. Bucio commented that if you identify a small emitter and if they receive this exemption, they might increase their emissions and the Dept. couldn't catch them. He wanted to know if they would have to report their emissions if they went above a certain level.
- *Response* – C. Garber stated that the whole rule is based on emitter's responsibility to report and to know what rules apply.
- *Comment* – T. Ravn said that all rules work that way. This is no different from an air permit as well.
- *Comment* – C. Terrell asked who will do the analysis for the emitter for these small sources. She wants to see the rationale behind it.

VI. Reasonable Search and Inquiry

- *Andy Stewart, DNR Air Management Engineer*, presented a proposed process for sources to follow to identify whether they emit NR 445 HAPs and whether emissions have the potential to exceed NR 445 threshold levels. The draft proposal was initially distributed at the April 2001 TAG meeting and discussed again at this meeting
 - *Comment* – H. Hofmeister suggested that certain terms such as “as appropriate” be better defined. For example, they have 10,000 MSDSs and they can search for new chemicals in 100's of products. Their biggest problem is identifying how those products are used in their facility (e.g., used in a process vs. used in a consumer product). On the 2nd major bullet point - “Records on determination of possible emission points”, one should not only be concerned with emission point locations, but also note which emissions points are from exempt sources.
 - *Comment* – T. Stocksdale stated that literature related to emissions characteristics does not specifically identify what level of effort is required to satisfy the requirement for a reasonable search and inquiry.
 - *Question* – J. Fleischmann asked how often does one need to do the analysis? Every year? Every 5 years?
 - *Response* – A. Stewart responded that more guidance on this may be needed.
 - *Comment* – B. Heitzer suggested that maintenance chemicals might be an issue in some cases (e.g., SARA 313 reporting)
 - *Question* – P. Stevens asked if this search and inquiry is mandatory and need to be in a rule, or if it is advisory and needs to be in a note.
 - *Response* – A. Stewart said staff are investigating what the best way would be for including this concept into the rule.
 - *Question* – P. Stevens asked if a source that does a good job is later responsible if they find they emit a chemical.
 - *Response* – A. Stewart stated that this is what staff are calling the “safe harbor idea”. One aspect of this might be that a source would have to make sure it took timely action to ensure that it was in compliance with applicable requirements once it became aware, but that they would be held harmless for past actions. Stakeholders might have to further discuss the issue of what to do about retroactively addressing past emissions.
 - *Comment* – J. Fleischmann said that a 5-year cycle of reasonable search would be reasonable, but conducting this analysis every year would be a bit much.
 - *Comment* – B. Fassbender stated that this is not an independent requirement. You can't be cited for not doing this.
 - *Question* – B. Mitchell asked if a trade association could make a reasonable search and inquiry for its members, rather than having each member conduct its own.
 - *Response* – A. Stewart said that in practice, we have allowed for this type of approach in the past.
 - *Question* – C. Terrell asked if this reasonable search and inquiry process address the issue of secondary pollutants or the byproducts of combustion or reactions.

- *Answer* – A. Stewart said that these emissions are meant to be considered where information is available.
- *Question* – T. Ravn asked about the emissions of solvents listed as "sources an operator is not required to consider". He wondered what types of solvent uses might be exempt and non-exempt. The term "clean-up" solvents was not clear.
- *Comment* – B. Heitzer suggested that there be a definition of clean-up solvents. Perhaps some of the clean-up solvents could also be included in maintenance activities.
- *Comment* – H. Hofmeister suggested the term "equipment" be clarified. Is it synonymous with "process equipment"?
- *Response* – J. Hamill said that the distinction here is between "process equipment" vs. building maintenance related activities.
- *Comment* – J. Beasom commented that in regard to the last bullet point on the handout – "Any consumer product packaged for distribution to the general public and used and disposed of in its intended manner", that the term "intended manner" be deleted.
- *Response* – A. Stewart responded that the intent here is to make sure a process doesn't use 1,000's of cans of consumer spray paint in industrial processes.

VII. Preliminary Draft #2 of Revised Ch. NR 445

- Andy Stewart, DNR Air Management Engineer presented the second preliminary draft of revised NR 445, with special emphasis on compliance schedules (Working Draft Document for the June 19, 2001 TAG Meeting attached to meeting summary).
- *Question* – J. Beasom asked how is the definition of disposal now used in the rule.
- *Answer* – A. Stewart said there will be two tables of limited applicability in the rule – Tables B (pesticides) and Table C (pharmaceuticals). Only facilities that manufacture, process, or dispose of these classes of chemicals would be subject to these tables.

VIII. Other Business/Wrap Up/ Next meeting

- C. Garber wrapped up the meeting with a summary tasks to be accomplished to resolve several outstanding issues:
 - ✓ DNR staff would like comments on the diesel engine requirements in 3 weeks
 - ✓ WUA should submit an analysis of the number of gallons of diesel fuel that would be used by those engines it identified as being possibly exempt sources
 - ✓ For Coal Dust, the Department needs to meet with the utilities, paper council, railroads and coal suppliers to discuss the issue of coal dust
 - ✓ DNR staff will continue exploring these aspects of the rule revision:
 - ◆ The concept of small emitters
 - ◆ Business impact analysis
 - ◆ Wood dust
 - ◆ Asphalt fumes
 - ◆ The Permit Interface

IX. The Next meeting date has not been determined yet. Announcements will be sent via e-mail and on the DNR's website, once a date and location has been determined.